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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,836	08/31/2001	Royce D. Jordan JR.	010558	2808
38823 7590 04/10/2007 THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP/ BELLSOUTH I.P. CORP 100 GALLERIA PARKWAY SUITE 1750 ATLANTA, GA 30339			EXAMINER REILLY, SEAN M	
			ART UNIT 2153	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			04/10/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/943,836	JORDAN, ROYCE D.	
	Examiner	Art Unit	
	Sean Reilly	2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2007.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 38-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 38-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This Office action is in response to Applicant's amendment and request for reconsideration filed on January 11, 2007. Claims 38-58 are presented for further examination. All independent claims have been amended. This action is made NON-FINAL due to the new 101 rejection not necessitated by amendment.

#### ***Response to Arguments***

Applicant sole argument is that Mousseau cannot provide a delivery confirmation to the sender of a message after the message has been delivered to the recipient over the wireless communication network since Mousseau repackages a received message to include address information for a mobile device that was not provided by a sender of the message (see inter alia Applicant's arguments filed January 11, 2007 pg 11, 2<sup>nd</sup> ¶). Examiner respectfully disagrees and directs Applicant to the newly relied on parent application of Mousseau '585, Mousseau '019 as cited below and referred to hereinafter as Mousseau\_2. Mousseau\_2 clearly disclosed sending a delivery confirmation (e.g. read receipt) to the sender of a message (which may or may not be another wireless user, Col 25, lines 10-11) after the message has been delivered to the recipient ("mobile communications device") over the wireless communication network (see inter alia Mousseau\_2 Col 25, lines 9-23).

#### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**1. Claim 48 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

With regard to claim 48, Applicant's specification paragraph 22 provides evidence that Applicant intends the scope of a computer readable medium to include a data signals transmitted on one or more carrier waves hence, each claim is drawn to a form of energy. Energy is not one of the four categories of invention and therefore these claims are not statutory. Energy is not a series of steps or acts and thus is not a process. Energy is not a physical article or object and thus is not a machine or manufacture. Energy is not a physical article or object and thus is not a composition of matter. Applicant may overcome this 101 rejection by limiting the scope of a computer readable medium such that carrier wave transmission mediums are excluded. Applicant is invited to review the latest "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility" (signed October 26<sup>th</sup>, 2005) which further clarifies computer-related nonstatutory subject matter on pages 50-57.

[http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101\\_20051026.pdf](http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101_20051026.pdf)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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- 2. Claims 38-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mousseau et al. (U.S. Patent No. 6,438,585, hereinafter “Mousseau”) and Mousseau et al. (U.S. Patent Number 6,779,019; hereinafter Mousseau\_2) and Gilhuly et al. (U.S. Patent Number 6,701,378; hereinafter Gilhuly) and Beyda et al. (U.S. Patent Number 6,275,850; hereinafter Beyda) and Hamilton et al. (U.S. Patent Number 6,981,023; hereinafter Hamilton).**

Note the Mousseau\_2 ‘019 reference is the CIP parent application to Mousseau ‘585.

Accordingly the references are considered to be one in the same for the purposes of a 103 rejection. The citations below refer to Mousseau ‘585 unless otherwise noted.

With regard to claims 38 and 47-49, Mousseau disclosed a method for processing data in a wireless communication network comprising:

- receiving at least one electronic message having at least one attachment associated therewith (Fig. 7, step 220; col. 16, lines 43-47);
- processing the at least one electronic message based on characteristics of the at least one electronic message including type of the at least one electronic message and based on characteristics of the at least one attachment including type of the least one attachment, wherein a determination is made whether to remove a respective attachment from the at least one electronic message (e.g. file type) (see inter alia col. 8, lines 19-26; col. 15, lines 46-65);
- if a determination is made to remove one or more attachments from an electronic message, providing the electronic message with one or more indicia tags for the one or more attachments being removed from the electronic message, the one or more

indicia tags being derived from the characteristics of the one or more attachments including size and type characteristics (e.g. the forward message includes information about the attachment including “file name, size, and file type,” see col. 15, lines 63-65; col. 22, lines 25-30).

- Forwarding the electronic message to the recipient with the one or more indicia tags and without the one or more attachments (e.g. sending the message “stripped” or “minus” the attachment, see inter alia Col 15, lines 53-67 and Col 16, lines 47-52);
- Receiving instruction from the recipient for processing an attachment that was removed from the electronic message and replaced with an indicia tag at a subsystem connected to the gateway (e.g. the user selects an attachment displayer to route the attachment to, see inter alia Col 16, line 47 – Col 17, line 30) the subsystem comprising a fax machine for faxing the attachment (“fax”); a database for storing the attachment (e.g. uploading the file to a internet secure storage) (see inter alia Col 6, lines 35-55);
- Process the attachment at the subsystem indicated by the user, wherein the gateway is configured to provide wireless communications services to interactive messaging client and provide Internet email services and user-selectable filtering (see inter alia, Col 8 ,lines 19-60) and wherein the system is configured to provide a delivery confirmation (e.g. a read receipt) for the message to a sender of the electronic message after the message has been delivered to the recipient over the wireless communication network (see inter alia Mousseau\_2 Col 25, lines 9-23);

Mousseau disclosed the invention substantially as claimed however, Mousseau failed to specifically recite 1) receiving the electronic message at a *gateway for the wireless communication network*, 2) removing the attachment based on the size of the attachment, and 3) the subsystem comprising a text-to-speech device for speaking the contents of the attachment.

With regard to point 1, Mousseau disclosed the invention substantially as claimed however, Mousseau failed to specifically recite receiving the electronic message at a *gateway for the wireless communication network*. Mousseau disclosed the above claimed functionality occurs through a redirection program that runs on anyone of a server, desktop or mobile device however, Mousseau never stated running the redirection program at a wireless gateway. Nonetheless it was widely known at time of Applicant's invention to utilize Mousseau's redirector program at a wireless gateway, as evidenced by Gilhuly. In an analogous e-mail redirection system Gilhuly disclosed a redirector program (abstract) similar to Mousseau's redirector program. In Gilhuly's system the redirector program can be run at a wireless gateway (See inter alia Figure 6 and Col 13, lines 21-35). The gateway interfaces with at least one other communication network that uses different protocols (e.g. a hard link to the internet and a wireless connection that both utilize different protocols) (Gilhuly Col 4, lines 44-60). By placing the redirection program at the wireless gateway the system is able to specifically restrict which messages will be pushed or forwarded over the wireless portion of the network (Gilhuly Col 13, lines 62-67). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention modify Mousseau's system to include a redirector program at a wireless gateway as disclosed by Gilhuly, in order to specifically restrict which messages will be pushed or forwarded over the wireless portion of the network (Gilhuly Col 13, lines 62-67).

With regard to point 2, Mousseau disclosed removing an attachment from an electronic message based on the type of attachment however, Mousseau failed to disclose removing the attachment based on the size of the attachment. Nonetheless it was widely known in the art at the time of Applicant's invention to remove an attachment from an electronic message based on the file size of the attachment, as evidenced by at least Beyda. An a similar email forwarding system, Beyda like Mousseau disclosed determining whether or not to forward message attachments within an electronic message based on characteristics of the attachments (Beyda Col 4, lines 36-61). Beyda further disclosed that the attachment characteristics may include the attachment file size and/or the attachment file type (see inter alia, Beyda Col 4, lines 39-41). By selectively including attachments in electronic messages based on the attachment file size, Beyda ensures that the download time of messages is not excessive and thus reduces the time that may be wasted by the user in downloading unwanted large file attachments (Beyda Col 1, lines 32-64). Thus, it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to filter messages in Mousseau's system based on attachment file size in addition to attachment file type, as disclosed by Beyda, in order to ensure that the download time of messages is not excessive and thus reduces the time that may be wasted by the user in downloading unwanted large file attachments (Beyda Col 1, lines 32-64).

With regard to point 3, Mousseau disclosed forwarding message attachments to various components including faxes, voicemail devices, and file servers (see inter alia Col 6, lines 35-55) however, Mousseau failed to disclose forwarding message attachments to a text-speech device for speaking the contents of the attachment. Nonetheless Mousseau specifically keep his system open ended so that users could forward their email attachments to any external device capable of



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handling that particular type of attachment type (see inter alia Col 6, lines 35-55). Furthermore as evidenced by at least Hamilton Col 4, lines 36-38, text-to-speech devices for speaking the contents of email data were widely known at the time of Applicant's invention. Thus, it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Mousseau's system to allow users to forward file text attachments to a text-to-speech device in addition to faxes or file servers, so that users can listen to text attachments is they desire. Allowing users to listen to text attachments would be beneficial for numerous reasons such as allowing users who are visually impaired to ascertain the contents of a text attachment. Further other users may simply prefer to have an attachment read to them as opposed to reading it.

With regard to claim 39, Mousseau disclosed the gateway selectively denies transmission of attachments of electronic messages based unilaterally on message characteristics (e.g. file type) (see inter alia Mousseau col. 8, lines 19-26; col. 15, lines 46-65).

With regard to claim 40, Mousseau disclosed the message is forwarded in a push operation ("push" Col 2, lines 49-54).

With regard to claim 41, Mousseau disclosed storing the one or more attachments after removing the one more attachments (col 6, lines 45-52, the attachment may be sent to a "store");

With regard to claims 42-44, Mousseau disclosed the at least one electronic message is received and sent through the Internet or wireless network (see inter alia Figure 6 and Col 6, lines 11-27).

With regard to claim 45, Mousseau disclosed the message is forwarded through a wireless data network to a wireless application (Col 6, line 56 – Col 7, line 6).

With regard to claim 46, Mousseau disclosed the wireless application is selected from the group consisting of a pager, a PDA, wireless telephone (Col 6, lines 56-62) however Mousseau did not disclose the application is a digital camera or digital camera including a self-contained web-cam. Nonetheless Mousseau disclosed that any data communications device that can send and receive data may be utilized (Col 6, lines 56-62). Examiner takes official notice that both a digital camera and digital camera including a self-contained web-cam were widely known at the time of Applicant's invention. Furthermore Examiner takes official notice that both were capable of sending and receiving data at the time of application invention. Thus, it would have been obvious to utilize a digital camera or digital camera including a self-contained web-cam in Mousseau's system since they both can send and receive data as Mousseau requires.

With regard to claim 50, Mousseau disclosed at least one mail router for receiving the electronic message from the Internet (required for received of data over the internet).

With regard to claim 51, Examiner takes official notice that it was widely known in the art at the time of Applicant's invention to utilize routers structured to handle traffic selected from

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the group consisting of inbound Internet traffic, outbound Internet traffic, and X-Sockets traffic in order to route traffic. Thus it would have been obvious to utilize routers structured to handle traffic selected from the group consisting of inbound Internet traffic, outbound Internet traffic, and X-Sockets traffic in Mousseau's system in order to properly route electronic message traffic.

With regard to claims 52-54, Beyda disclosed storing messages in at least one user database of the gateway and that the database is structured to verify users access to the gateway (Col 3, lines 62-67).

With regard to claim 55, Examiner takes official notice that email signatures were widely known at the time of Applicant's invention and databases for storing emails that contain signatures were widely known at the time of Applicant's invention. Thus, it would have been obvious to use a database that permits signatures to be associated with electronic messages in Mousseau's system so that users can receive messages with signatures.

With regard to claim 56, Mousseau disclosed at least one of the user databases is structured to receive instructions for filtering the electronic messages (Col 8, lines 47-56).

With regard to claim 57, Mousseau disclosed at least one protocol handler for processing the electronic messages (Col 11, lines 16-21).

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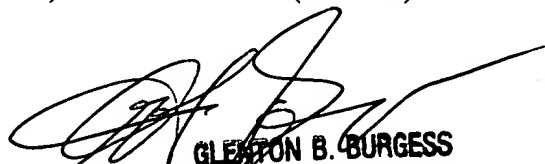
With regard to claim 58, Examiner takes official notice that it was widely known in the art at the time of Applicant's invention to utilize N Routers for receiving messages over a wireless network and transmitting messages to a recipient when the source is the Internet. Thus, it would have been obvious to use one N router machine for receiving the electronic messages in the gateway when the source is a wireless data network and transmitting the electronic messages to a recipient when the source is the Internet in Mousseau's system in order to facilitate the transfer of messages between users in the system.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean Reilly whose telephone number is 571-272-4228. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**GLEN B. BURGESS**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2100**